

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

People Of The State Of Illinois

Petitioner

vs.

Drew Peterson

Respondent

No. 09 CF 1048

MOTION TO MODIFY AND REDUCE BOND

Now comes the Defendant **Drew Peterson**, by and through his attorneys **Joel A. Brodsky** and **Reem Odeh** of the law firm of **Brodsky & Odeh** and **Andrew Abood** of the **Abood Law Firm** and pursuant to **725 ILCS 5/110-6** moves this Court to reduce the bond set in this case. In support of this motion the Defendant states:

1. The Defendant is charged with two (2) Counts of First Degree Murder (720 ILCS 5/9-1(a)(a)), by way of a Bill Of Indictment, and his bond has been set at \$20,000,000.00 (Twenty Million Dollars) at 10% deposit.

2. The aforesaid bond was set on the presentation of the indictment to the Court for issuance of a warrant, and was set *ex parte* and without input from the defense.

3. The amount of bail currently required of the Defendant is excessive and oppressive under the standards set if in 725 ILCS 5/110-5(b)

"One of the fundamental principles in our system is that a person accused of a crime is presumed innocent until proved guilty. As a corollary, the constitutional provision dealing with bail is designed to give the accused liberty until he is proved guilty, but yet to have some assurance that he will appear for trial. For years the courts have emphasized that the purpose of bail is to make certain a defendant's appearance in court to abide the judgment of the court. People v. Ealy, 49 Ill. App. 3d 922, 932 (Ill. App. Ct. 1st Dist. 1977)"

4 In fact, a 20 million dollar bail amount is tantamount to an denial of bail, as only a very small number of persons are capable of depositing the required two (2) million dollars necessary to satisfy this amount. As the US Bill Of Rights states in the Eighth Amendment:

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." USCS Const. Amend. 8

Also, Illinois law is clear:

"Yet excessive bail should not be required for the purpose of preventing a prisoner from being admitted to bail." People v. Ealy, 49 Ill. App. 3d 922, 934 (Ill. App. Ct. 1st Dist. 1977)

5 A review of the factors in this case in the light of 725 ILCS 5/110-5 show that the Defendant is entitled to a substantial bail reduction:

6 Defendant Drew Peterson is 55 years old and is a life long resident of Illinois. He has no history of any criminal convictions. He has lived in Bolingbrook, Will County, Illinois since 1977, and before that lived in Lombard, Illinois. The only time Defendant lived outside of Illinois was when he was in the United States Army stationed in Washington DC, from 1974 to 1976.

7. Mr. Peterson is a veteran, having served in the US Army from 1974 to 1976. He was based in Washington DC, and served in the Military Police unit out of Arlington, VA. Part of his duties was to provide security for dignitaries, including the President Of The United States. On occasion Mr. Peterson provided security for President Gerald Ford. Mr. Peterson was granted an Honorable Discharge from the US Army in 1976.

8 Since 1977, Mr. Peterson has lived in Bolingbrook, Will County, Illinois. His current residence is 6 Pheasant Chase Court, Bolingbrook, Illinois, where he lives with his four (4) minor children, Lacy, age 4, Anthony, Age 5, Kristopher, Age 14 and Thomas, Age 16.

9. Defendant Drew Peterson has extensive family contacts in the Will County, and Northern, Illinois area, and has no family outside of Northern, Illinois.

10. The Defendant has six (6) children, (1) one grandchild, and four (4) nieces and nephews all who live in Northern, Illinois. There is Lacy, age 4, Anthony, Age 5, Kristopher, Age 14 and Thomas, Age 16, who live at the Defendant's Bolingbrook, address. Then there is his son Stephen Peterson, age 30, who lives in Oak Brook, Illinois, with his wife and child, (who is Defendant Peterson's grandchild). And there is the Defendant's oldest son, Eric, who is 31. The Defendant's mother, Betty is 85 years old and lives in Westmont, Illinois; the Defendants sister Laura, who lives in Naperville, Illinois, and the Defendant's brother, Paul, who lives in Montgomery, Illinois, with his wife and four (4) children, who are the Defendants' nieces and nephews.

11. Mr. Peterson owns the real estate which is single family residence at 6 Pheasant Chase Court, Bolingbrook, Will County, Illinois, and the residence is paid for, and is not the subject of any mortgages, other than a line of credit on which no money is owed. Mr. Peterson does not own any other real estate. However, Mr. Peterson has owned his homes in Will County, Illinois for the past twenty five (25) years.

12. Further, Mr. Peterson owns substantial personal property all located in Will County Illinois including two (2) cars which are paid for, two (2) Harley Davidson Motorcycles, which are paid for, and an Ultralight aircraft which is paid for.

13. Mr. Peterson is currently retired, and his only source of income is his pension from the Bolingbrook Police Department, which is approximately \$6000.00 per month. He has no substantial savings or investment accounts.

14. Defendant Peterson has worked in Will County, Illinois since 1977 as a Law Enforcement Officer. He was hired by the Bolingbrook Police Department in 1977, and became a Sargent in 1997. He was police officer of the year in 1979, and received numerous departmental commendations for his work over the years. Further, in the 1980's, for a five (5) year period, Mr. Peterson was assigned to the Metropolitan Area Narcotics Squad (MANS), where he put his life on the line on a daily basis as an undercover narcotics officer. In 1981 Mr. Peterson received a

department commendation for his drug arrests. Also during this period he worked with the Federal Drug Enforcement Agency on dangerous undercover operations.

13. Defendant Peterson is not a flight risk. He has been the publicly announced subject of an investigation into the death of Kathleen Savio, the alleged victim in the above referenced indictment, for the last eighteen (18) months. Mr. Peterson, and most of the public, knew that the Will County States Attorney's office stated publically that they expected to bring charges against Mr. Peterson for homicide "in the near future". During this period Mr. Peterson traveled, with this Court's permission and otherwise, to Los Angeles California (approximately 100 miles from Mexico), New York, which borders with Canada, and Florida, (from which several Caribbean, and Central American, non-extradition countries can be reached by boat or plane). During this time Mr. Peterson traveled with his US Passport, but at no time did he attempt to leave the United States and he always returned to his home in Bolingbrook, Illinois.

14. Mr. Peterson is a US Citizen, and is not a citizen of any other country. His US Passport is in the custody of the Illinois State Police, having been taken when he was arrested. Mr. Peterson does not want it back until after this case is resolved.

15. Mr. Peterson is not a danger to the community in general, or any single person in particular. Since his Illinois State FOID Card has been revoked he has not had the possession of any firearms, nor is the crime he is charged with one in which any weapon is alleged to have been used. (A factor in favor of lowering bail under 725 ILCS 5/110-5(a)) In fact since date of the alleged offence, up until 18 months ago, Mr. Peterson was a law enforcement officer who performed his job protecting the community, making arrests, and supervising law enforcement officers.

16. The case against the Defendant is not strong, and can be described as a weak circumstantial case at best.

17. First, the issue of whether or not there is even a crime is suspect. The case is based upon questionable forensics, with the death of the alleged victim being originally being found to be

accidental by the Will County and other investigating authorities, (and in fact the death of Kathleen Savio is still listed as an accidental death as of April 17, 2009 by the Coroner, (Exhibit "A"). The new allegation that the death of Kathleen Savio is a homicide is the result of an second autopsy being conducted four (4) years after burial on a corpse that was described by a private pathologist who witnessed the autopsy as being badly deteriorated, decomposed and damaged by water.

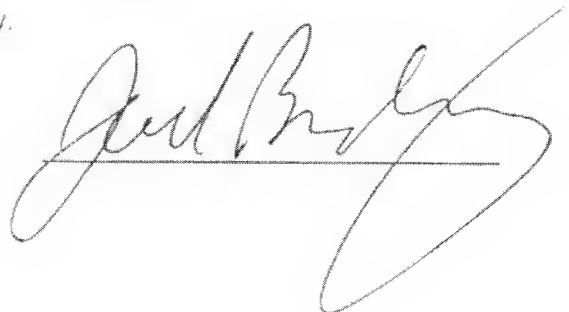
18. Further, the Will County States Attorney has publically announced that the prosecution of the Defendant is based on the State's reliance on a new law which is designed to admit hearsay evidence. (725 ILCS 5/115-10.6). This law was recently passed and is untested by the Courts, and has never been used. This law is of questionable constitutionality, (See the US Supreme Court cases of Crawford v. Washington, 541 US 36 (2004), Davis v. Washington, 547 US 813 (2006) and Giles v. California, 554 U.S. \_\_\_\_, 128 S. Ct. 2678, 171 L. Ed. 2d 488 (2008)), and it is highly unlikely if not impossible for it to be applied retroactively, (ex post facto), to the date of the offence charged. (see 5 ILCS 70/4, People v. Dalby, 115 Ill.App. 3d 35 (1983) and People v. Thiem, 82 Ill.App.3d 956 (1980) This new hearsay law is also subject to other legal challenges, and has been the subject of much public criticism to date from both legal scholars and the public, even being the subject of a critical editorial in the *Chicago Sun Times* on May 10, 2009. (Exhibit "B")

19. Also, the crime the defendant is charged with is not one in conjunction with any other crime. No burglary, armed robbery, sexual assault, or violation of an order of protection is alleged, nor is it alleged any firearm or other weapon was involved.

20. Finally, a result of an analysis of the amount of bail bonds set in Homicide cases in Will County since 2001 shows bail bonds are frequently set in the one million dollar range, and these are for persons with criminal histories and where the weight of evidence is much stronger and the likelihood of conviction probable.

21. In the instant case where there are the incredibly strong ties to the community of family and property, a long history of public service, no criminal history, it is proven that the Defendant is not a flight risk, and the Defendant is the subject of an indictment and prosecution with both serious legal and factual problems and flaws, a bond in the area between \$100,000.00 and \$500,000.00, with a ten percent (10%) deposit required, will be "sufficient to assure compliance with conditions set forth in the bail bond" (725 ILCS 5/110-5(b)(1)) "will not be oppressive", (725 ILCS 5/110-5(b)(2)), will be "considerate of the financial ability of the accused", (725 ILCS 5/110-5(b)(3)) and is all that is necessary to "reasonably assure the appearance a defendant as required .... and the likelihood of compliance by the defendant with all the conditions of bail". (725 ILCS 5/110-5(a)).

WHEREFORE, Defendant prays that the bond set in this case be reduced to a bond of between \$100,000 00 and \$500,000.00, with the requirement of a 10% deposit, and such other conditions of bond as the court deems fit and necessary.

A handwritten signature in black ink, appearing to read 'Joel Brodsky', written over a horizontal line.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



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Drew Peterson

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